

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Hotel, Restaurant and Bar Employees
Health and Welfare Fund, and Hotel,
Restaurant and Bar Employees
Pension Fund,

Civil No. 05-708 (ADM/RLE)

Plaintiffs,

ORDER

v.

C & S of Duluth, Inc., d/b/a Terry's
Place,

Defendant.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Raymond L. Erickson dated September 12, 2005. No objections have been filed to that Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. Plaintiff Motion for Default Judgment (Docket No. 2) is GRANTED;
2. The Clerk of Court is directed to enter a Default Judgment against the Defendant C & S of Duluth, Inc., d/b/a Terry's Place, in accordance with Rule 55(a) of the Federal Rules of Civil Procedure.
3. That, pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, the Defendant is directed to submit to the Plaintiffs, forthwith, those employment and payroll records necessary to permit the Plaintiffs to complete an audit disclosing the amount, if any, of unpaid benefit contribution payments that are owed to the Plaintiffs under the terms

of the Collective Bargaining Agreement.

4. Plaintiffs, after having the opportunity to review Defendant's books and records, shall schedule an Evidentiary Hearing by contacting Magistrate Judge Erickson's scheduling clerk, Victoria Miller, at which time Plaintiffs shall offer proof of the amount of the Final Judgment which should be entered on its behalf.

Dated: October 7, 2005

s/Ann D. Montgomery

ANN D. MONTGOMERY
United States District Court Judge